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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,369	05/25/2001	Leonard S. Hand	6169-201	3721

7590

12/08/2003

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EXAMINER

ZHOU, TING

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 12/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/865,369

Applicant(s)

HAND ET AL.

Examiner

Ting Zhou

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: Note reference characters "30" in Figure 1 and "410c" in Figure 4.
2. Applicant is required to submit a proposed drawing correction of the above noted deficiencies (preferably in red ink) in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

3. A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art. The abstract of the disclosure is objected to because it refers to

purported merits of the invention, as shown in the sentence beginning "The present invention discloses a method and apparatus for efficiently..." on line 1.

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet *within the range of 50 to 150 words*. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract is objected to due to its long length and should be corrected to provide a more concise summary of the invention.

5. The abstract of the disclosure is objected to because of the following minor informalities:

a. The sentence beginning "Update messages containing fields for each metric to reported can be used to update..." on line 4 is not grammatically sound. The sentence should be revised to --Update messages containing fields for each metric to be reported can be used to update...--.

b. The use of phrases "a update message" and "a interrogation" on lines 10 and 11 respectively is grammatically incorrect. The correct usage would be --an update message-- and --an interrogation--.

- c. The use of "not the set" on lines 14 and 18 is grammatically incorrect. The correct phrase to use would be --not to set--.

Corrections are required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Dev et al. U.S. Patent 5,261,044.

Referring to claims 1, 9, 16 and 24, Dev et al. teach a dynamic network node metrics reporting method and machine readable storage (network management system for displaying information), as recited in column 2, lines 47-50. Specifically, they teach, in column 2, lines 53-68 and continuing onto column 3, lines 1-28, probing a content delivery network (a dynamic data space) for determined and undetermined metric values characterizing the performance of the component, reporting those metric values to a graphical display interface (column 4, line 1) and repeating the probing and repeating steps for undetermined metric values.

Referring to claims 2, 10, 17 and 25, Dev et al. teach the occurrence of the probing for metric values and reporting of the values to a display interface in a first agent (the virtual network machine), as recited in column 7, lines 25-44.

Referring to claims 3, 11, 18 and 26, Dev et al. teach repeating the probing and reporting of metric values through communication with a second agent (the device communication manager), as recited in column 4, lines 18-27.

Referring to claims 4, 12, 19 and 27, Dev et al. teach updating a first update message (sending a request to the device communication manager to poll the network devices) with the metric values from probing of the network and adding to the first update message, a predefined code (triggering the fault isolation inference handler) relating to undetermined values (the network device that failed), as recited in column 9, lines 8-39.

Referring to claims 5, 13, 20 and 28, Dev et al. teach updating a second update message (a fault message) with determined metric values corresponding to the undetermined metrics (cause of the fault) resulting from the probing initiated by the first agent, as recited in column 9, lines 39-41.

Referring to claims 6, 14, 21 and 29, Dev et al. teach the use of the values of metrics for the first and second update messages to update values within the graphical display (updating values of the network management system, shown on the graphical display), as recited in column 7, lines 54-58 and column 8, lines 8-10. This can further be seen from Figure 10.

Referring to claims 7, 15, 22 and 30, Dev et al. teach indicating a problem with the probing step on the graphical display, as shown by reference character "426" in Figure 10. As

can be seen from the figure, the problem of the device not being contacted when polled is shown on the display.

Referring to claims 8 and 23, Dev et al. teach the displayed metric value being connections between different components, as shown in Figures 8A and 8B.

Referring to claim 31, Dev et al. teach the component of the machine-readable storage being a content delivery network (CDN) network (method and apparatus for displaying information relating to a network), as recited in column 2 lines 47-50.

Referring to claim 32, Dev et al. teach a dynamic network node metrics reporting system (network management system for displaying information), as recited in column 2, lines 47-50. Specifically, the system comprises a graphical display map (shown in Figures 7A, 7B and 7C) for displaying a plurality of nodes (icons) and visual representations of reported metric values for characterizing components (column 2, lines 51-64) and a plurality of agents configured to probe the components for determined and undetermined metric values and report those values to the graphical display map (column 3, lines 1-28 and column 4, lines 14-27).

Referring to claim 33, Dev et al. teach the use of performance metric values (performance parameters such as error rate) to characterize the components, as recited in column 15, lines 16-20.

7. The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach electronic books with similar mechanisms for note taking and retrieval.

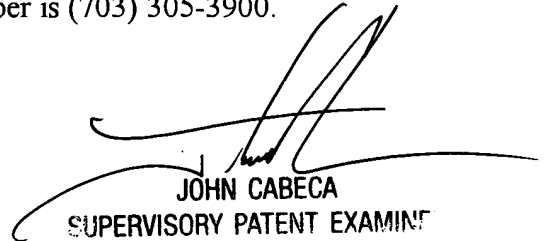
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (703) 305-0328. The examiner can normally be reached on Monday - Friday 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached on (703) 308-3116. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-8720.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

November 25, 2003



JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 21